



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

December 5, 2012

Officer Brian Reilly

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Brian Reilly**
Tax Registry No. 931020
Manhattan Court Section
Disciplinary Case No. 2011-5104

The above named member of the service appeared before Deputy Commissioner Martin G. Karopkin on July 18, 2012, and was charged with the following:

DISCIPLINARY CASE NO. 2011-5104

1. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between October 11, 2007 and June 17, 2011, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer operated his personal motor vehicle, a [REDACTED] [REDACTED], New York license plate [REDACTED] without a valid registration of said vehicle with the New York State Department of Motor Vehicles, as required.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

**N.Y.S. VTL, Title 4, Article 14
Section 401**

REGISTRATION OF MOTOR VEHICLES; FEES; RENEWALS

2. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between October 11, 2007 and June 17, 2011, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer operated his personal motor vehicle, a [REDACTED] [REDACTED], New York license plate # [REDACTED], without a valid inspection of said vehicle, as required by the New York State Department of Motor Vehicles.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

**N.Y.S. VTL, Title 3, Article 5
Section 301**

PERIODIC INSPECTION OF ALL MOTOR VEHICLES

**POLICE OFFICER BRIAN REILLY
DISCIPLINARY CASE No. 2011-5104**

3. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between July, 2010 and June 17, 2011, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer operated his personal motor vehicle, a [REDACTED] [REDACTED], New York license plate # [REDACTED], without valid insurance of said vehicle, as required by the New York State Department of Motor Vehicles.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED CONDUCT
GENERAL REGULATIONS**

**N.Y.S. VTL, Title 3, Article 6
Section 312**

REGISTRATION OF MOTOR VEHICLES

4. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully prepared and submitted a Complaint Report (UF-61) which falsely reported that said Police Officer had lost a license plate assigned to his personal vehicle, [REDACTED] [REDACTED], New York license plate [REDACTED], within the confines of the 70th Precinct.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED CONDUCT
GENERAL REGULATIONS**

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY -
GENERAL
GENERAL REGULATIONS**

5. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully prepared and submitted a Complaint Report (UF-61) in which said Police Officer wrote or signed the name of another uniformed member of the service to indicate falsely that the report had been taken by said other member of the service.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED CONDUCT
GENERAL REGULATIONS**

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY -
GENERAL
GENERAL REGULATIONS**

POLICE OFFICER BRIAN REILLY
DISCIPLINARY CASE No. 2011-5104

6. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer falsely reported to the New York [State] Department of Motor Vehicles that a license plate assigned to his personal vehicle, a [REDACTED], New York license plate [REDACTED], had been lost, when it had not.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED CONDUCT
GENERAL REGULATIONS**

7. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency or discipline, of the Department, in that said Police Officer wrongfully prepared and submitted a Complaint Report (UF-61) in which said Police Officer wrote or signed the name of another uniformed member of the service to indicate falsely that the report had been approved by a supervisory member of the service. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS**

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY -
GENERAL
GENERAL REGULATIONS**

8. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between April 24, 2010 and June 12, 2011, having prepared two (2) moving violation summonses on or about April 24, 2010, wrongfully did fail and neglect to return certifications of service for said summonses to [his] command, as required. (*As amended*)

P.G. 209-03, Page 1, Paragraph 4

**OBTAINING AND RETURNING
PARKING SUMMONSES AND
MOVING/CRIMINAL COURT
SUMMONSES
SUMMONSES**

9. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between June 2011 and September 2011, having found an unused Department Activity Log, wrongfully did fail and neglect to notify his desk officer, as required. (*As amended*)

P.G. 219-20, Page 1, Paragraph 1

**LOSS OR THEFT OF DEPARTMENT
PROPERTY
DEPARTMENT PROPERTY**

POLICE OFFICER BRIAN REILLY
DISCIPLINARY CASE No. 2011-5104

In a Memorandum dated August 20, 2012, Deputy Commissioner Martin G. Karopkin found Respondent Reilly Guilty of Specification Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9, in Disciplinary Case No. 2011-5104. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the recommended penalty.

Respondent Reilly's misconduct was egregious and warrants separation from the Department. However, in consideration of the overall circumstances in this matter, I will allow a manner of separation other than dismissal from the Department. Therefore, Respondent Reilly shall immediately file for vested-interest retirement and be suspended for 30 days, with separation from the Department to occur at the conclusion of such 30 day period. Respondent Reilly shall separate from the Department while on Modified Assignment. Further, Respondent Reilly is to forfeit all suspension days previously served with and without pay, if any, and is to waive all accrued time and leave balances, including terminal leave, if any, and will immediately be placed on a One-Year Dismissal Probation period.

Such vested-interest retirement shall also include Respondent Reilly's written agreement to not initiate any administrative applications or judicial proceedings against the New York City Police Department, including seeking reinstatement or return to the Department. This agreement is to be implemented **IMMEDIATELY**. If Respondent Reilly does not agree to the terms of this vested-interest retirement as noted, this Office is to be notified without delay.


Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

August 20, 2012

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Brian Reilly
Tax Registry No. 931020
Manhattan Court Section
Disciplinary Case No. 2011-5104

The above-named member of the Department appeared before me on July 18, 2012, charged with the following:

1. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between October 11, 2007 and June 17, 2011, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer operated his personal motor vehicle, a [REDACTED], New York license plate [REDACTED] without a valid registration of said vehicle with the New York State Department of Motor Vehicles, as required.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT-PROHIBITED CONDUCT GENERAL REGULATIONS

N.Y.S. VTL, Title 4, Article 14 REGISTRATION OF MOTOR VEHICLES;
Section 401 FEES; RENEWALS

2. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between October 11, 2007 and June 17, 2011, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer operated his personal motor vehicle, a [REDACTED], New York license plate # [REDACTED] without a valid inspection of said vehicle, as required by the New York State Department of Motor Vehicles.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT-PROHIBITED CONDUCT GENERAL REGULATIONS

N.Y.S. VTL, Title 3, Article 5 – PERIODIC INSPECTION OF ALL MOTOR
Section 301 VEHICLES

COURTESY • PROFESSIONALISM • RESPECT

3. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between July, 2010 and June 17, 2011, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer operated his personal motor vehicle, a [REDACTED] [REDACTED], New York license plate [REDACTED], without valid insurance of said vehicle, as required by the New York State Department of Motor Vehicles.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT-PROHIBITED CONDUCT GENERAL REGULATIONS

N.Y.S. VTL, Title 3, Article 6 – REGISTRATION OF MOTOR VEHICLES
Section 312

4. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully prepared and submitted a Complaint report (UF-61) which falsely reported that said Police Officer had lost a license plate assigned to his personal vehicle, a [REDACTED] [REDACTED], New York license plate [REDACTED], within the confines of the 70th Precinct.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT-PROHIBITED CONDUCT GENERAL REGULATIONS

P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS

5. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully prepared and submitted a Complaint report (UF-61) in which said Police Officer wrote or signed the name of another uniformed member of the service to indicate falsely that the report had been taken by said other member of the service.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT-PROHIBITED CONDUCT GENERAL REGULATIONS

P.G. 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS

6. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer

falsely reported to the New York Department of Motor Vehicles that a license plate assigned to this personal vehicle, [REDACTED], New York license plate [REDACTED], had been lost, when it had not.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT-PROHIBITED
CONDUCT
GENERAL REGULATIONS

7. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about June 23, 2010, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully prepared and submitted a Complaint Report (UF-61) in which said Police Officer wrote or signed the name of another uniformed member of the service to indicate falsely that the report had been approved by a supervisory member of the service. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT PROHIBITED
CONDUCT
GENERAL REGULATIONS

P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS

8. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between April 24, 2010 and June 12, 2011, having prepared two (2) moving violation summonses on or about April 24, 2010, wrongfully did fail and neglect to return certifications of service for said summonses to [his] command, as required. *(As amended)*

P.G. 209-03, Page 1, Paragraph 4 OBTAINING AND RETURNING
PARKING SUMMONSES AND MOVING/
CRIMINAL COURT SUMMONSES
SUMMONSES

9. Said Police Officer Brian Reilly, while assigned to the Patrol Borough Brooklyn South Task Force, on or about and between June 2011 and September 2011, having found an unused Department Activity Log, wrongfully did fail and neglect to notify his desk officer, as required. *(As amended)*

P.G. 219 20, Page 1, Paragraph 1 – LOSS OR THEFT OF DEPARTMENT
PROPERTY
DEPARTMENT PROPERTY

The Department was represented by David Green, Esq., Department Advocate's Office, and Respondent was represented by Michael Martinez, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent has been a member of the Department for approximately 10 years. Upon graduation from the Police Academy, he was assigned to the 70 Precinct for approximately four to five years. While assigned to the 70 Precinct he was full duty and performed patrol duties. After the 70 Precinct, he was assigned to the Patrol Borough Brooklyn South Task Force (BSTF). He stated that he received a transfer for assignment to BSTF by submitting an application. In order to get accepted to BSTF, Respondent stated, "you had to have high recommendations, certain amount of activity, arrest activity, summons activity, just show your, just show that you're competent in your enforcement duties." Respondent applied to BSTF and received the recommendations that he needed to be accepted. He worked at BSTF for approximately five years.

Respondent acknowledged that his car was already impounded when this case had come to light. Respondent testified that there were summonses in his personal car that were written by him which were never properly submitted (Department's Exhibit (DX) 4 is a copy of the two summonses). Respondent stated that he was using the car to go back and forth to traffic court and he guessed that the unprocessed summonses had gotten combined with all of his summonses. He further explained that he used to keep the

summons for traffic court in a shoe box and the unprocessed summonses were somehow placed in there as well. Respondent acknowledged that it was just sloppiness on his part.

Respondent explained that he found a blank Department Activity Log at traffic court in Coney Island (DX 5 is a photo copy of the front page of the unused Activity Log). He took the Activity Log, threw it in his pocket, went into traffic court and inquired of the other officers that were present if anyone had lost their Activity Log. Respondent said that no one had acknowledged losing their Activity Log, so when he came back from court he threw it in the back of his car and forgot about it.

Respondent purchased his [REDACTED] in approximately 2006. He explained that his father had suddenly passed away due to a stroke around that time. His father had worked at the Waldorf Astoria as a carpenter and his pension was cut off, causing Respondent's mother to not have any money. His parents had no savings and they were living in an apartment [REDACTED]. Respondent stated, "Mentally I was crushed. Monetarily, I – I had to help my mother out with bills, funeral arrangements, things of that nature." He also stated that the economic toll "pretty much brought me to the wall on that one. That was that's probably what brought me to bankruptcy, coming close."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondent explained that the problems he was having with the paperwork on his [REDACTED] started when he bought the car at an auction in [REDACTED]. He stated that they had put some kind of temporary plate on the vehicle and he got the plates later. He stated, "But the way they issued it, it was, you know, I was on it with the – the loan company was on the title." The Department of Motor Vehicles (DMV) would not take the title. Respondent stated that the paperwork was never right and "it could never get right." He said, "I don't know, it just seemed like it was always tomorrow, tomorrow – you know, one more thing one more thing with these and it just it couldn't get done." At first he acknowledged trying to follow up on these things but admitted that the drinking became such a routine that he could not get it done.

Respondent stated that he would drive the vehicle from his house in [REDACTED] [REDACTED] to work at BSTF, where he would park behind BSTF. The only other time that he would drive the vehicle would be to traffic court or something Department-related. Respondent acknowledged that during most of this period his vehicle was insured, but there did come a point in time where he decided to cancel the insurance¹. He had decided to cancel the insurance because the vehicle had substantial mechanical problems and was about to break down. He explained that he used to pull over on his way home from work, and he had to carry Pepsi bottles filled with water because the vehicle would overheat all of the time. Respondent further explained that he just wanted to utilize the vehicle to

¹ DX 1 is a copy of Respondent's New York State Insurance Identification Card for GEICO Policy # [REDACTED] for the [REDACTED]. The effective date of the policy is 12/23/2009 and the expiration date is 06/23/2010.

travel back and forth to work and that he thought he would be able to maintain it just a little longer. Respondent stated, "I just needed – it always seemed like I just needed one more day to get my stuff done, and it just – I never I procrastinated. It was my fault."

Respondent testified that he attempted to get the vehicle fixed. The first time he fixed the vehicle it cost \$1600.00 and the second time he had the radiator fixed and it cost another \$1600.00. He stated:

I didn't have the money anymore. I I said, I went I declared bankruptcy, all my savings was gone. Anybody that I could borrow money from, I had borrowed money from. So there was nobody to borrow from anymore. There was nobody to go to anymore. So I had – I felt I had no option.

Respondent explained that as far as the license plate was concerned, he was trying to keep one plate on the vehicle, so that when he traveled back and forth to work he would not get stopped by the police and get into a hassle with tickets. He further explained that he would not get towed if he put the vehicle anywhere because there was always a plate on the vehicle. Respondent stated, "So nobody would notice that the car was, you know, out of sorts." Respondent testified that when he tried to cancel his insurance, he was advised that he needed to get a form from the DMV and mail it to the insurance company. He eventually had to fill out a complaint report for a lost license plate and he submitted it to the 70 Precinct.² Respondent took the report to the DMV and they handed him a piece of paper that he had to mail to GEICO.

² DX 2 is a copy of the Complaint Report Worksheet and DX 3 is a copy of the corresponding Omniform Complaint Report printout. In the "Details" section of the Complaint Report Worksheet is handwritten: "At T/P/O C/V states he pushed vehicle at above location. When he returned he found 1 NYS license plate to be missing (NYS plate [REDACTED])." On the Complaint Report Worksheet, under the "Reporting/Investigating M.O.S." section, the name "PO Ramos" is handwritten, with Ramos' purported signature next to it. Under the "Supervisor Approving Name" section, the name Sgt Romero, Ludwig" is handwritten, with Romero's purported signature next to it.

With regard to how he obtained the names of a police officer and a sergeant that he signed on the complaint report, (DX 2) Respondent explained:

They were it was just a – sometimes they'll leave roll calls, you know, in the glove box of the RMP's. I just took a roll call and I went down the names, and I just took two names that, I don't' know, just for whatever reason, I did it in an effort – I did it because I didn't want to get anybody else involved in what I was doing. I didn't want anybody else's name on, you know, what I was doing, so I figured that if I just did it this way, that it would have been easier, nobody would have got hurt. I could have went to any precinct and pulled up and just got it done the legit way.

Respondent explained that the "legit way" meant that if he walked into a precinct and said that his license plate was stolen or missing, they would have filled out a report with no questions asked. He acknowledged being in situations where people have come into the precinct with the same problem. He explained that the procedure is to go out investigate the vehicle, see that the plate was missing, talk to the person, get his or her identification, and fill out a complaint report. With respect to his vehicle, Respondent acknowledged that alcohol had taken control of his life, and at that point a lot of other things, important things, did not really matter. He stated, "Because it was always work, you know, I have to relieve stress. Alcohol, sleep. And it just became a cycle at that."

Respondent stated that he began getting help for his alcohol problem on August 22, 2011. He started getting help because he showed up to work one day and there was a notification for him to report to the Counseling Unit located at 189 Montague Street in Brooklyn. Respondent headed to the Counseling Unit where they advised him that somebody had submitted his name and they said he had a problem with alcohol. Respondent stated, "I went down there. I denied it. I fought it, blah, blah, blah. They eventually got the, you know, they put me in the program and it was night and day. It's

like I was asleep for the past six years". Respondent does not know the identity of the person who recommended him for the treatment, but he did state that he would like to thank them because his life is on a completely different path now.

Respondent's treatment started on August 22, 2011 and required him to attend two to three outpatient sessions [REDACTED].³ Two of the sessions were group settings where he would sit among 20 people and they would go around the room and discuss their issues or problems and discuss tactics on how to get through their problems with alcohol. He also had to go to an individual session with a counselor. This one-on-one session lasted about 30 minutes and it addressed the Respondent's needs and how alcohol affected him directly as opposed to the group. In addition to the sessions, Respondent had to attend three Alcoholics Anonymous (AA) meetings a week. Respondent stated that for six days a week for approximately eight-and a-half to nine months he was attending these meetings. He was also subjected to drug testing, usually once but sometimes twice a week, where they tested his urine for drugs and alcohol. Respondent stated that it was neither an issue nor a problem because he had not had a drop of alcohol since starting the treatment. Respondent testified that since the treatment began and he got off the alcohol he lost close to 40 pounds and he got into exercise more to relieve stress. [REDACTED]
[REDACTED]

Respondent acknowledged that he started drinking heavily to deal with trauma and the sudden loss in his life. He further acknowledged that now that he is sober he has had to deal with those stresses in his life. He explained that about 10 months ago on the

³ Respondent's Exhibit (RX) A is a copy of the Certificate of Completion [REDACTED], which reflects that Respondent completed the requirements [REDACTED]. The certificate is dated January 24, 2012.

A train he had a verbal dispute with a gentleman who took out a box cutter and slashed the Respondent across the face, causing him to receive 30 stitches. Also approximately two weeks ago, Respondent reported sick and went to Lefrak City. While he was there, another officer who returned from Iraq was present and this officer became emotionally disturbed and came at the Respondent swinging a knife. In both incidents, Respondent was not accused of any misconduct. The person who slashed him on the subway was eventually arrested. Respondent, while working at the Manhattan Court Section, found the individual's picture in a warrant basket. Respondent brought the picture to the attention of his supervisor and they went down to Corrections and pointed the individual out. Detectives from the Queens Transit Robbery Squad arrested him. When the case went to the Assistant District Attorney in Queens, they ultimately did not want to pursue the case because the individual had an alibi. Respondent acknowledged that after both of these stressful incidents he did not start drinking again.

Respondent has been assigned to the Manhattan Court Section for the past year. He currently works in the affidavit control room, which entails getting the cases when they come off the printer and breaking them down. He checks the cases for warrants, parole violations or any kind of violations that they may have and he contacts different commands by phone related to paperwork issues. Respondent inputs the cases into the computer and ensures that all of the cases are lined up as far as who needs to go to corrections or who needs to go to the court officer. Respondent characterized his attitude now, as opposed to a couple of years ago as:

Now it's – it's I enjoy getting up in the morning. I enjoy coming to work. I know that everyday, you know, everyday is a positive day. That even though I'm going through problems now, it's – it's kind of like – it's much

better now because the alcohol isn't there to – to cloud it and I guess I missed out on a lot with the alcohol.

Respondent acknowledged that throughout this bad period of his life he was never arrested for anything. Respondent stated that he hoped by pleading guilty to all the charges and offering his testimony that he would throw himself on the mercy of the Court and ask forgiveness and a second chance. Respondent also stated that he would like to keep his job.

On cross-examination, Respondent stated that he purchased his [REDACTED] in 2006, approximately two months before his father died. During that time, he acknowledged that he possessed the vehicle title and that the vehicle was registered in New York State, but he did not know what happened to the title because he moved three or four times. Respondent did not attempt to get a copy of the title from either the dealer where he purchased the vehicle or from the DMV. Respondent also acknowledged that at some point he fell into financial difficulties because of circumstances beyond his control.

Respondent stated that he did not start taking public transportation as opposed to using his own vehicle during that time because “the closest public transportation was it was a good half mile to get to the train and the bus was, I couldn’t even tell you where the bus would go.” He acknowledged that he would have had to walk half a mile back and forth from the train each day. At that time, he was also living with his girlfriend who would occasionally drive him to work in her [REDACTED]. At first, his girlfriend would drop him off at the train so that he could take public transportation, but between her miscarriage and her next pregnancy, she had to keep going to the doctors for appointments, so she stopped dropping him off and any kind of transportation was “on him.”

Respondent acknowledged that at some point his financial problems became so bad that he decided to cancel his insurance. Respondent stated that he always had a driveway when he had the vehicle, but when the vehicle was taken away he had moved and he did not have a driveway at that point. He further explained that his registration expired because he could not find the title and there was something missing with the paperwork. He stated that he went to the DMV two or three times and it was always some other paper they did not tell him about, so he just did not follow up on it.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on July 1, 2002. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department Advocate seeks Respondent's separation from the Department. The Advocate has formally asked for dismissal but has indicated that he would be satisfied if the Respondent were given an opportunity to accept vested interest retirement. Respondent has asked this Court to craft a penalty that would not include separation.

Respondent argues that he began his career as an excellent patrol officer as evidenced by his transfer to his position in the Brooklyn South Task Force. He stated that the untimely and unexpected death of his father triggered major family financial problems. These financial problems, which ultimately led to his filing for bankruptcy, fueled a drinking problem. Also, he claimed during this period of time his girlfriend had a miscarriage, further aggravating his personal distress.

All of these problems made it difficult for him to cope with day to day issues. One of these issues was his car. He said he purchased the car, used, in New Jersey. While he was initially able to register and insure it, the registration was cancelled because he could not obtain a valid title. Because he was unable to cope with the DMV bureaucracy he eventually gave up. He also could not afford to fix the car and get it inspected. When he attempted to cancel the registration by turning in one plate he was told he had to account for the missing plate with a police report. Respondent then went to the 70 Precinct and prepared a false complaint report on which he forged the signature of a police officer and a sergeant.

Respondent has fully acknowledged his guilt with regard to all of the specifications in this case. Respondent points out that he was forthright and candid during his official Department interview and did not seek to avoid responsibility or pursue any kind of defense. Respondent testified that he was sent to the Counseling Unit and although he initially denied having a drinking problem, he acknowledged it, sought help and now remains sober. He further notes that he has done well in his current position and is a highly motivated police officer who would like to continue to serve in that capacity.⁴

The Department does not argue that Respondent has not redeemed himself. The Department argues that separation is necessary because the nature of the offenses precludes him from further performing law enforcement work.

⁴ Court's Exhibit (CX) 1 is a copy of the Commanding Officer's Review of MOS Involved in a Disciplinary Matter form for Respondent. The form is dated March 15, 2012 and signed by Respondent's Commanding Officer at the Manhattan Court Section, Captain Thomas Farrell. Respondent is rated a 7 "Above Standards" and is described as : "Overall, he is professional, courteous and respectful and completes assignments in a highly competent manner."

There is no question that Respondent engaged in serious misconduct, particularly in falsely preparing a Department document. The question is whether this kind of conduct is beyond redemption.

Instructive in this matter is Disciplinary Case No. 81568/06. In that case an 18-year member of the Department allowed her boyfriend, who did not have a valid license, to operate her vehicle. When he got into an accident she rushed to the scene and told responding officers that she had been the driver at the time of the accident. She signed accident paperwork to that effect. That officer was subsequently arrested and pled guilty to the misdemeanor of offering a false instrument for filing in Criminal Court. In an original plea agreement in her Departmental disciplinary case, that officer pled guilty with the understanding that she would file for vested interest retirement. Subsequently that officer was penalized with the loss of 30 vacation days, 60 suspension days (thirty of which had previously been served) and one year of dismissal probation. She was not compelled to file for retirement and remained as an officer with this Department.

On balance, that case, which included a criminal conviction, was more serious. It also demonstrates that an officer whose work reflects an effort to make amends can be allowed to continue with the Department. Considering all of this and the substance of the misconduct in this case which did not involve an arrest or criminal charges, this Court recommends that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to § 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at anytime without further proceedings. Further, it is recommended that Respondent forfeit 31 days previously

served on suspension without pay and an additional 29 vacation days, for a total of 60 penalty days.

Respectfully submitted,


Martin G. Karopkin
Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

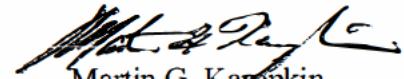
From: Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER BRIAN REILLY
TAX REGISTRY NO. 931020
DISCIPLINARY CASE NO. 2011-5140

In his last three annual evaluations, Respondent received an overall rating of 4.0 "Highly Competent" in 2011, a 3.0 "Competent" in 2010, and a 2.5 "Below Competent" in 2009. He has been awarded one medal for Excellent Police Duty.

Respondent was placed on Level 1 performance monitoring from 2010 to 2011 and has been on Level 2 discipline monitoring since 2011.

Respondent has not been the subject of any prior disciplinary proceedings.

For your consideration.



Martin G. Karpkin
Deputy Commissioner Trials